

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
BRIEF**

76-1182

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

B P/s

UNITED STATES OF AMERICA,

Appellee,

-against-

WILLIAM J. JOYCE, DONALD WALSH, JANET TERRI,
and LOUIS BOVELL,

Defendant-Appellants.

BRIEF FOR APPELLANT WILLIAM J. JOYCE



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BRIEF FOR APPELLANT WILLIAM J. JOYCE

Preliminary Statement

William J. Joyce, Donald Walsh, Janet Terri, and Louis Bovell appeal from judgments of conviction entered January 29, 1976 in the United States District Court for the Eastern District of New York, after an eight-day trial before the Honorable Thomas C. Platt, United States District Judge, and a jury.

Defendant Joyce was initially charged with Walsh, Edward J. Boyle, Thomas M. Burns, Grimsley, Leonard Nitti, Terri, Robert Schoenly, Peter Areiter, Bovell, John Freudiger and Morton Hanan in indictment 75 Cr. 488, filed June 16, 1975, with violating Title 18, United States Code, Section 371, by conspiring to knowingly and willfully receive and have in their possession stolen goods in violation of Title 18, United States Code, Section 659 and Section 2, and with violating Title 18, United States Code, Section 659 and Section 2 by willfully and unlawfully possessing 117 cartons of Timex watches stolen from Flying Tiger Airlines on March 17, 1975.*

Boyle, Burns, Nitti, Schoenly, and Areiter each entered pleas of guilty to one count prior to trial, Boyle to Count 2 and Burns, Nitti, Schoenly and Areiter to Count 1.

Trial of the remaining defendants, Joyce, Walsh, Grimsley, Terri, Bovell, Freudiger, and Hanan, was commenced on January 19, 1976. On January 26, 1976, after the trial had advanced five days, Freudiger and Hanan entered pleas of guilty to a superseding information charging them with

*Actually, Grimsley was charged under Section 659 in a separate indictment, 75 Cr. 975, which was consolidated with indictment 75 Cr. 488 for purposes of trial.

possession of stolen property having a value of less than \$100 in violation of 18 U.S.C. 659, a misdemeanor. Trial against the remaining defendants was conducted on January 19, 20, 21, 22, 26, 27, 28 and 29, 1976. Defendants Joyce, Walsh, Terri and Bovell were found guilty on both counts. Defendant Grimsley was found not guilty on Count 1 and guilty on Count 2.

Appellants were sentenced on April 9, 1976. Joyce was sentenced pursuant to 18 U.S.C. Section 3208(a)(2) to imprisonment of eight years and a fine of \$5,000 on Count 2 and imprisonment of four years and a fine of \$5,000 on Count 1 to run concurrently with the sentence on Count 2. Walsh was sentenced to imprisonment of five years and a fine of \$5,000 on Count 2 and imprisonment of four years and a fine of \$5,000 on Count 1 to run concurrently with the sentence imposed on Count 2. Terri and Bovell were sentenced concurrently to three years imprisonment on each count, execution of which was suspended on all but six months. Terri was fined \$5,000 on each count and Bovell \$2,000 on each count and they were each placed on probation for three years. On April 23, 1976, Grimsley was sentenced to imprisonment of three years execution of which was suspended for all but two months. All appellants are enlarged pending the determination of this appeal.

STATEMENT OF THE CASE

A. The Government's Case

Co-defendant Robert Schoenly, a bartender at the Tic Toc Bar in Lynbrook, New York testified that on March 17, 1975 William Joyce entered the bar at 10:30 a.m. on and said he had made "a hit at the airport", that he had taken a "commodity", and that it was in a truck. At 10:45 a.m., Peter Arieter arrived and was asked by Joyce to drive someone to the airport. Arieter agreed and left with Joyce (T 82-83),* after Joyce left Donald Walsh, Joyce's cousin, came in and was told by Schoenly that Joyce had "gotten something" and that Walsh said he knew a place to put it. Schoenly later observed Walsh, Joyce and Burns conversing in the Tic Toc Bar (T 84-86). Later, at an unspecified time, Schoenly claims that Joyce told him that the shipment was Timex watches which they were trying to sell but did not have a buyer (T 86-87).

Schoenly also testified that at 2:00 p.m. on March 21, 1975, Janet Terri came into the bar with Walsh. At Walsh's request, Schoenly rented a truck from Hub Rental

*All references marked "T" are to the transcript of the trial.

(T 88-89). When he returned Walsh told him he was going to move the shipment and asked him not to tell Joyce (T 94-95). That evening at 7:00 p.m. Schoenly accompanied Louis Bovell, Walsh, and John Freudiger to Terri's house with the truck where they loaded some cardboard boxes and a few bags on the truck (T 97-98). Later that evening, Joyce came into the bar and Walsh informed him that they had moved the shipment. Schoenly testified that Joyce returned the truck on March 24, 1975, and Schoenly picked up the deposit later (T 106-107).

Schoenly testified that later, about a week prior to his appearance before the grand jury (on July 9), Walsh, Joyce, and Terri told him that if no one talked the government would have no case and advised him to plead the Fifth (T 127-28).

Peter Areiter, a truckdriver and patron of the Tic Toc Bar, testified that on March 17, 1975 he went to the Tic Toc Bar where William Joyce asked him to give a friend a ride to the airport. Using Joyce's car, Areiter took Joyce's friend to the Flying Tiger parking lot at Kennedy Airport (T 273-74). On Areiter's return Joyce and Burns, another patron of the bar, asked him to help move some cartons (T 275-76) and Joyce indicated he would pay him for doing so (T 298).

Burns testified that Joyce asked him on March 17, 1975 to move some boxes (T 422) offering on March 24, 1975 to pay for his wedding (T 476). Both Burns and Areiter testified that at 7:00 p.m. that evening they went with Walsh and Bovell to pick up a truck and then drove it to a garage (T 277-79, 424-26). Burns, Bovell and Areiter transferred some cartons from a Ryder truck in the garage onto the truck they had brought. They then drove the truck to Janet Terri's house, unloaded the cartons in the living room, and then moved them to the basement (T 277-99, 423-35).

Burns also testified that on March 21, 1975 Joyce again asked him to help move some boxes again, but he declined. On March 24, 1975, Joyce asked Burns to find a place to store the boxes, and Burns asked Nitti if he could use his garage. Burns and Joyce then picked up the van the boxes were in at that time and drove it to Nitti's house, where Joyce, Burns and Nitti unloaded the boxes in the garage. Burns then returned the truck to Hub Rental (T 436-39, 447). Burns testified that on March 26, 1975, Joyce asked him to go to Nitti's garage and get some samples. He and Areiter testified that they went there and removed watches (T 299-300, 499-50).

Burns testified that on March 27, 1975 Joyce told

him to go pick up half the boxes and take them to Boyle's bar (T 470). Joyce gave him a pistol, and said "you might need this in case there is any trouble. I don't know who the driver is" (T 467-468). Accompanied by appellant Grimsley, the driver, Burns stopped at Boyle's, then drove to Brooklyn, where they were waved into a garage, and unloaded the boxes in the garage. In the process, they were arrested (T 471, 473-75).

Leonard Nitti testified that on March 24, 1975, Burns came to his house and asked to rent his garage. Burns told Nitti he wanted to park a van containing hot watches (T 536). Burns told Nitti he would receive \$1,000 for renting the garage (T 537, 541). Burns and Joyce brought the van to the garage that night and Burns asked if they could leave the boxes in the garage. Nitti agreed and helped unload the boxes (T 537-39). Joyce showed Nitti some of the watches (T 542). On March 26, 1975 Burns and Areiter came to the garage, looked at the watches, removed a few and left (T 542-43). On March 27, 1975 Burns called Nitti and said they were going to remove half the watches from the garage. At 8:00 that evening Nitti noticed that a few of the boxes were missing. The next morning the FBI arrived (T 543-44).

Edward Boyle testified that on March 24, 1975, when he was tending bar in Boyle's Bar, Joyce came in with Walsh

and asked Boyle if he knew anyone who would be willing to buy watches for \$100,000. Boyle said he would let the word out (T 590-92). Joyce returned to Boyle's on March 26, 1975 but Boyle had not heard anything (T 592-93). On March 27, 1975, a prospective buyer named "Joe" called Boyle, who notified Joyce. That afternoon, Boyle, Burns and Joyce met with the prospective buyer at Ferucci's Bar where Boyle discussed a sale (T 593-98). Boyle then called Grimsley and asked if he were interested in moving the cartons, stating that they contained stolen watches, and offered to pay him \$250 (T 598-99).

Boyle testified that he, Joyce, Burns and Grimsley met the buyer's representative that evening at a Brooklyn garage. Grimsley and Burns had brought the truck. The buyer's representative was carrying two envelopes containing money. At that point the police arrived (T 602-04).

Joseph Giordano, a detective with the Port of New York Authority, testified that, acting in an undercover capacity and impersonating a fence, he placed a phone call to Boyle and arranged a meeting with him at Ferucci's Bar. Giordano met with Boyle and Burns and made arrangements to purchase the watches. Joyce was present but did not participate (T 686-89). Thereafter, he brought \$25,000 in cash to the garage in Brooklyn and showed it to Boyle. Joyce was not present at the time. Boyle put \$5,000 in his pocket (T 695).

FBI agent George Van Nostrand testified that he and another policeman interviewed Grimsley on March 27, 1975 after Grimsley's arrest. Grimsley said he had been asked by Boyle to do a job moving some merchandise, and that he met with Boyle, Burns and Joyce and, pursuant to instructions, he and Burns picked up the cartons, drove them to a Brooklyn garage and began unloading them. Van Nostrand testified that Grimsley told him he was aware the load was stolen (T 723-25).

FBI agent Joseph Sullivan, testified that on March 27, 1975 he and two detectives surveilled the Brooklyn garage (T 746-47). Shortly after he observed a truck enter, he entered the garage, found Joyce, Boyle, and Burns and another unidentified person, and executed an arrest (T 747-48). After interviewing some of the arrested individuals, he obtained a search warrant and found 59 cartons of watches in the Nitti garage (T 751-52). The cartons matched the waybills from the Flying Tiger shipment (T 770-73).

Sullivan also testified that sometime after on 10:30 a.m. on March 17, 1975 Joyce was called back for an interview at the Flying Tiger Lines at Kennedy Airport (T 794-95). Joyce said that he had opened a container of watches in order to determine whether it was domestic or international freight, and had seen a Ryder rental truck parked on the rampside near the gas pumps (T 797). At a subsequent interview on March 21, 1975 Joyce said the same thing and indicated that he left

work at 9:00 a.m. on March 17, 1975 and had gone to the Tic Toc Bar (T 799-800).

Joan Cullen, an employee of Flying Tiger Lines, produced documents indicating that Ryder truck and part of a shipment of watches was missing from Flying Tiger Lines (T 862-65). The pallet containing the watches was stored in the domestic side of the warehouse (T 874).

Walter Lucas, an employee of Timex Corporation, produced an air bill, invoices, and packing lists describing the stolen watches which were being shipped from Taiwan destined for Middleburg, Connecticut (T 913-14). He described the method of identifying, and marking cartons of watches for shipment, and stated that the recovery value of the watches was \$747,000 (T 916-17, 928).

B. The Defense Case

(a) Joyce. Appellant Joyce did not testify.

William Gibson, Ray Krispen, James Kittler and Leonard Vollkommer, all employees of Flying Tiger Airlines, testified that they knew Joyce both socially and from working with him, and that in their opinion Joyce was honest (T 963-68, 975-77, 980-81). Gibson was Joyce's supervisor (T 965). Frank Salvato, another Flying Tiger Airline employee who had worked with Joyce for five years, testified that Joyce was a good person and that he was very shocked at the indictment (T 969-70).

Kittler and Vollkommer recalled seeing Joyce come to work between 3:00 a.m. and 4:30 on the morning of March 17, 1975 (T 975, 979) and Salvato recalled seeing him there as late as 12:00 noon (T 970). Mrs. Cullen was recalled and testified that her records indicated that Joyce came to work on special call at 3:30 a.m. on March 17, 1975 and punched out at 9:30 a.m. (T 1231), and that he was back at work for five hours to unload a charter due at 7:57 p.m. but she could not give the actual times (T 1231-33).

Kittler, who worked with Joyce for 5-1/2 years, and Gibson, Krispin and Vollkommer all testified that Joyce had never driven a truck in their presence (T 974, 965, 967-68, 980).

Kittler also testified that the pallet which was later identified as containing the missing watches, was brought to the international side of the warehouse on that morning (T 975-76).

Thomas Robinson testified that Joyce was present in the Tic Toc Bar on March 24, 1975 between 7:00 and 9:00 p.m. Joyce and Montgomery Millbank left for half an hour, and returned. Robinson, a good friend of Joyce's, said that Joyce had never discussed the missing watches with him (T 985-87).

(b) Grimsley. Grimsley testified that he did not know any of the defendants with the exception of Boyle (T 1011-13). Boyle called him on the evening of March 27, 1975 and asked if he would be interested in moving some boxes that night. Boyle offered Grimsley some money without mentioning an amount. He did not tell him that the boxes contained watches or stolen property. Grimsley met with Boyle and a man named Tommy, drove with Tommy to the garage, and loaded the boxes into the truck (T 997-1001). Grimsley then picked up Boyle and drove to a garage on 18th Avenue, where he, Boyle, and Burns unloaded the truck (T 1003-004). Burns opened some boxes and pulled out some watches. He was also surprised to see that Boyle had an envelope with a wad of money. At this point he was arrested (T 1006).

Grimsley explained that when interviewed by agent Van Nostrand he said he knew the watches were stolen because his arrest made it obvious that they were (T 1009).

Mrs. Mary Foley, Peter Pellerito, and Walter Figuski testified that they thought Grimsley to be very honest, trustworthy and reliable (T 1240-46). Grimsley's wife testified that Grimsley had received a telephone call on March 27, 1975 just before he left for the evening (T 1073).

(c) Bovell. Thomas Robinson and Eileen Gruber testified to the honesty of Bovell (T 1075-76, 1227-28).

Bovell himself testified that on March 17, 1975, while he was at the Tic Toc Bar, he was asked by Walsh, for whom he had moved property before, to help with a move. He helped transfer some packages from one truck to another, and then went with Walsh to a house in Lynbrook where the packages were transferred into the house (T 1086-90). On March 21, 1975, he was again asked to help move some boxes and agreed. He said he had been told he would be taken care of for a couple hours work, but no sum was mentioned. He did not know the contents of the boxes or that they contained stolen merchandise (T 1091-97).

(d) Terri. FBI Agent Thomas Walsh testified that on April 8, 1975, Janet Terri showed him the basement of her parents' home, and answered questions (T 1111-16). Counsel stipulated that she was in Massachusetts on March 17 and 18, 1975 (T 1262-63).

Question Presented

Was it error to deny appellant Joyce the opportunity to call two witnesses capable of impeaching the Government's two lead witnesses on matters raised in their direct testimony, particularly when the impeaching testimony of one witness would have supported Joyce's defense?

POINT I

THE COURT ERRED IN PRECLUDING
JOYCE FROM IMPEACHING THE TESTI-
MONY OF TWO GOVERNMENT WITNESSES

The government's case against Joyce essentially rested on the testimony of four witnesses. As part of his defense, appellant Joyce sought to introduce testimony which would have impeached both of them with respect to portions of their direct testimony, and one with respect to a feature of Joyce's defense. The Court refused to permit either witness to be called on the grounds that the proffered testimony was collateral (T 1236, 1238-39). Both rulings were erroneous and caused substantial prejudice to Joyce's defense. This requires reversal of the conviction.

The government produced no proof against Joyce with respect to the actual theft of the watches except circumstantial evidence based largely on the fact that he worked for Flying Tiger Airlines. He was not present when the goods were unloaded at the home of Janet Terri's parents, and the testimony of Joseph Giordano, the government agent posing as a "fence", indicated that Joyce did not participate in either the discussions leading to the agreement to buy (although he was present at Ferucci's where the discussion took place (T-689-92)* or in the actual dealings with

*The agent was told by Boyle that he would have to check with the principal and finalize the deal by phone later that day even though Joyce was physically present at the time but not participating (T 596, 689).

the agent the night of the arrest when the sale was made (T 693-96).

The government's case against Joyce rested very substantially on the testimony of Boyle and Schoenly, both co-defendants awaiting sentence whose testimony was therefore suspect. (See United States v. Padgent, 432 F.2d 701 (2d Cir. 1970); United States v. Masino, 275 F.2d 129, 132-33 (2d Cir. 1960). The testimony which the Court barred, had it been permitted, could have effectively impeached Schoenly and Boyle and raised substantial doubt as to whether the testimony of two remaining accomplice witnesses, Burns and Nitti, would have been sufficient to persuade the jury.

Boyle testified on direct that he was no longer working on his job as a platform man at Pinto Air Freight because he was "laid off right now" (T 588). On cross-examination he denied that he was having union trouble, or even that he was discharged.* Joyce was precluded from presenting a witness who would have testified that Boyle was actually dismissed by Pinto Air Freight for falsifying time cards, and that as a result he was having trouble with his union

*Q. Were you talking to Mr. Joyce about what?

A. Union talk, that's all. It goes on every day in the airport.

Q. Wasn't about your job?

A. No.

Q. You never mentioned returning?

A. I don't know where you get the idea I was suspended? (T 611).

trying to be reinstated (T 1237-38). This would have advanced Joyce's defense because Joyce contended that Joyce was using his union connections and the fact that he was a steward to help Boyle get reinstated and that this explained Joyce's presence at Ferruci's with Boyle (T 1237-39, 1414-15).

Schoenly testified in his direct testimony that he was married "only a couple of months" before trial (T 78). Joyce was precluded from having Marie Aranella testify that Schoenly was referring to Barbara Jari with whom he was living, that Schoenly was not married to her at all, and that he in fact was not even divorced from his wife of long standing (T 1235-36).

In the context of this case, the preclusion of the testimony of these witnesses was error because these were key witnesses, the testimony sought to be impeached was part of their direct testimony, and with respect to one witness, the subject matter supported a portion of Joyce's defense.

This Court has stated that "in criminal cases especially, defense counsel should be given great latitude in addressing proof which might bear on credibility". United States v. Wolfson, 437 F.2d 862, 874 (2d Cir. 1970), citing Harris v. United States, 371 F.2d 365, 367 (9th Cir. 1967):

"If the information sought reflected adversely upon the credibility of the witness, the government had no legitimate interest in suppressing it."

while the general rule regarding impeachment of the credibility of witnesses by contradiction is that impeachment on collateral matters is subject to the discretion of the trial court, see, e.g., 3A Wigmore on Evidence, §1001-02 (Chadbourn Rev. 1970); Shanahan v. Southern Pacific, 188 F.2d 564, 565 (9th Cir. 1951), this does not mean that evidence is not material solely because it is not itself directly probative of the factual issues in the case or that the court cannot err in precluding it. Evidence bearing solely on credibility can be material where it involves a key witness. In this case Joyce sought to impeach two key witnesses against him.

In Wolfson, supra, Rittmaster was a key witness and this was sufficient to make the proffered impeaching evidence material rather than collateral. This Court held that it was error to exclude it and reversed the conviction. There the trial court had refused to allow defense counsel to attack Rittmaster's credibility by introducing correspondence relevant to his motive in testifying. As here, the witness had been named as a co-defendant, pleaded guilty, and was testifying for the government. Because of the importance of the witnesses' testimony for the government's case, the Court reasoned that "all testimony which might have affected [the witness's] credibility was vital to the defense" (437 F.2d at 874).

Wolfson is supported by a number of other cases reversing convictions where a witness is precluded from impeaching the credibility of witnesses on cross-examination. Alford v. United States, 282 U.S. 687, 694 (1931); United States v. Padgent, supra; United States v. Kartman, 417 F.2d 893, 897 (9th Cir. 1969); United States v. Masino, supra, 275 F.2d at 133 (2d Cir. 1960):

"Indeed, where the principal witnesses appearing in behalf of the prosecution have a criminal record or have engaged in illegal practices and are accomplices to the crime charged, it is essential to a fair trial that the court allow the defendant to cross-examine such witnesses as widely as the rules of evidence permit."

While, unlike Wolfson which involved in part the denial of the opportunity to offer documents, these cases deal solely with curtailment of cross-examination, there is no reasonable basis in this case for precluding additional evidence to impeach simply because it is offered through a separate witness.*

The fact that the proffered testimony in these

*The only reasons advanced for making a distinction between limiting cross-examination and limiting the introduction of new evidence are to avoid confusion of issues and unfair surprise. 3A Wigmore on Evidence, §1002 (Chadbourn Rev. 1970). Neither of these considerations is applicable here where the defendant seeks to impeach part of the direct testimony of each of the two witnesses. Just as this Court noted in Wolfson that it would not have taken long to mark the proffered correspondence (437 F.2d at 874) the Trial Court could easily have limited the proffered testimony to the narrow points Joyce was seeking to impeach.

cases is often probative of a motive to lie is not a determinative distinction from the case at bar. The language of these cases indicates they are based on the fact that the witness has a motive to lie, not just that the proffered evidence shows a motive to lie. Both of the witnesses in the case at bar as co-conspirators yet to be sentenced had a motive to lie. In one sense this is an easier case than Wolfson in that the evidence proffered by Joyce would have impeached portions of the direct testimony of each witness. The right to impeach by contradiction any portion of the direct testimony of a key witness with some motive to lie, even if not directly probative of the issues in the case, should be the same as the right to impeach a key witness by evidence showing motive to lie. Such an "opening the door" theory is applied to permit evidence against defendants testifying on their own behalf. See United States v. Beno, 324 F.2d 582 (2d Cir. 1963), cert. denied, 379 U.S. 880 (1964); United States v. Aloï, 511 F.2d 585 (2d Cir., 1975) cert. denied, __ U.S. __, 96 S. Ct. 447 (1975); United States v. Colletti, 245 F.2d 781 (2d Cir.), cert. denied sub nom., Russo v. United States, 355 U.S. 874 (1957); United States v. Gruber, 123 F.2d 307 (2d Cir. 1941). If it is not improper to permit such evidence on behalf of the government, this principle should be sufficient to

create a right to impeach a key government witness when the same type of evidence is proffered by the defense.

In United States v. Aloï, supra, the defendant's characterization of himself as a family man opened the door to the government's introduction of testimony that he maintained an extramarital relationship. The analogy to Joyce's attempt to impeach Schoenly is striking. Likewise in United States v. Beno, supra, an IRS agent accused of receiving bribes testified to his own good conduct and presented three character witnesses to testify to his honorable behavior on specific occasions. Evidence showing his other misconduct as an IRS agent was permitted.

The fact that Boyle's testimony denied his suspension from his job the month before he testified and that he was having union problems is an additional reason why the testimony of one of the two witnesses proffered by Joyce is material. The proffered testimony would have substantially advanced the contention in Joyce's defense that he was dealing with Boyle because he was trying to assist Boyle get reinstated in his job. For this additional reason, the testimony of this witness was material and admissible. See 3A Wigmore on Evidence, §1003 (Chadbourn Rev. 1970)*

*"Could the fact, as to which error is predicated, have been shown in evidence for any purpose independently of the contradiction?"

The government cannot avoid reversal by arguing that impeachment of Schoenly and Boyle would still have left other testimony against Joyce capable of sustaining a conviction. The test is rather whether "the conviction is sure, that the error did not influence the jury, or had or very slight effect." Kotteakos v. United States, 328 U.S. 750, 764 (1946); United States v. Barry, 518 F.2d 342, 349 (2d Cir. 1975). See also United States v. Rosner, 516 F.2d 269, 272 (2d Cir. 1975) dealing with the newly discovered evidence ("that there is a significant chance that the disclosure would have induced a reasonable doubt in the minds of enough jurors to prevent a conviction"). Without Schoenly and Boyle, the government's case against Joyce was a much weaker one. There was no evidence at the trial that Joyce has taken the watches and there would not have been any evidence linking him to the negotiated sale.* The evidence linking him in the interim with possession of the stolen goods came from two admitted co-conspirators and was therefore suspect. Thus, it cannot be said that the absence of the testimony proffered by Joyce would not have shaken the jury's confidence in the government's case against Joyce.

*Boyle was the only witness connecting Joyce with the sale.

POINT II

APPELLANT JOYCE ADOPTS
ALL RELEVANT ARGUMENTS MADE
IN CO-APPELLANTS' BRIEFS

Pursuant to Rule 28(i) of the Federal Rules of Appellate Procedure, appellant Joyce adopts all relevant arguments made in any co-appellant's brief.

CONCLUSION

The conviction of appellant Joyce should be reversed.

Respectfully submitted,

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Appellant William J. Joyce
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New York, New York 10017
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Dated: New York, New York
July 9, 1976

[Appellant Joyce has filed with appellants Walsh, Grimsley, and Bovell a separately bound joint appendix. It bears the Docket No. 76-1192 which is the number of appellant Grimsley's appeal]

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

Docket No. 76-1182

UNITED STATES OF AMERICA,

Appellee,

-against-

WILLIAM J. JOYCE, DONALD WALSH, JANET TERRI
and LOUIS BOVELL,

Defendant-Appellants.

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

: SS.:

COUNTY OF NEW YORK)

LORRAINE BRISBIN, being duly sworn, states:

I am over the age of eighteen years and reside at 341 West 22 Street, New York, New York 10011. I am not a party to this action. On July 9, 1976, I served the within Brief for Appellant William J. Joyce on William Sperling, Esq., 125-10 Queens Boulevard, Kew Gardens, New York 11415; John Corbett, Esq., 66 Court Street, Brooklyn, New York 11201; Mulligan & Jacobson, 36 West 44 Street, New York, New York 10036; Thomas J. O'Brien, 2 Pennsylvania Plaza, New York, New York 10001; and The United States Attorney for the Eastern District of New York, United States Courthouse, Brooklyn, New York, by depositing copies in postpaid, properly addressed envelopes in an official depository of the United States Post Office.

Lorraine Brisbin

Sworn to before me this
9th day of July, 1976.

Barbara Stanton

BARBARA STANTON
NOTARY PUBLIC, State of New York
No. 31-3810210
Qualified in New York County
Certificate filed in New York County
1977